

REMARKSRestriction Requirement

Applicant thanks the Examiner for reconsidering the Restriction Requirement mailed on October 2, 2002 and rejoining the Claims of Groups I and II.

Amendments

The specification has been amended to correct typographical errors and to capitalize trademarks. Claim 1 has been amended herein, and support for the amendment is found throughout the specification, for example, at pages 18-20. Claim 2 has been amended herein to correct grammatical and typographic errors. No new matter is added by these amendments.

Information Disclosure Statement

A Supplemental Information Disclosure Statement (IDS) is being filed concurrently herewith. Entry of the IDS is respectfully requested.

Objections to the Specification

The specification is objected to, with the Examiner stating that the abbreviation PVDF requires the full name or explanation of the abbreviation when it appears in the specification for the first time.

In response to the objection, Applicant has amended the specification at page 16, line 19, to page 17, line 2 (the paragraph in which "PVDF" first appears) to provide the full name for the abbreviation PVDF. In view of the amendment, Applicant believes the objection has been overcome.

The specification is also objected to, with the Examiner stating that the "use of the trademarks i.e. Novagen have been noted in this application." The Examiner pointed out that trademarks should be capitalized wherever they appear.

In response to the rejection, Applicant has amended the specification to capitalize the trademark NOVAGEN. Applicant has also attempted to capitalize other trademarks that appear

in the application through amendments to the specification as provided herein. In light of the amendments, Applicant respectfully requests removal of the objection to the specification.

Rejection of Claims 1-4 and 10-16 Under 35 U.S.C. § 112, First Paragraph

Claims 1-4 and 10-16 stand rejected under 35 U.S.C. § 112, first paragraph, based on the statement by the Examiner that the specification, while being enabling for a method of detecting *Listeria monocytogenes* in a sample, does not reasonably provide enablement for a method of detecting all prokaryotic microorganisms or a plurality of pathogenic microorganisms.

In response to the rejection, Applicant points out that Claims 4, 11, and 13-16 have been cancelled herein. Claim 1 has also been amended herein to recite a method for detecting the presence or absence of *Listeria monocytogenes* in a sample. As the Examiner has stated that the specification is enabling for a method of detecting *Listeria monocytogenes* in a sample, Applicant submits that the rejection can now be withdrawn in view of the amendment of Claim 1. As claims 2, 3, 10, and 12 depend from Claim 1, and are therefore subject to all of the limitations of Claim 1, Applicant submits that the rejection of Claims 2, 3, 10, and 12 have also been overcome. Withdrawal of the rejection is respectfully requested.

Rejection of Claims 1-4, 10, 13, and 14 Under 35 U.S.C. § 102(b)

Claims 1-4, 10, 13, and 14 stand rejected under 35 U.S.C. § 102(b), based on the assertion by the Examiner that the claims are anticipated by Kraft, G.A. (EP 0428000 A1) (hereafter Kraft). Applicant notes that Claims 13 and 14 have been cancelled herein, and accordingly, addresses the rejection with respect to Claims 1-4 and 10.

Applicant points out that Claim 1 has been amended herein to recite a method for detecting the presence or absence of *Listeria monocytogenes* in a sample. The method comprises contacting a test sample with a substrate specific for a protease that is unique to *Listeria monocytogenes*; and detecting cleavage of the substrate or absence of cleavage of the substrate, wherein cleavage of the substrate is indicative of the presence of *Listeria monocytogenes* in the sample, and absence of cleavage of the substrate is indicative of the absence of *Listeria monocytogenes* in the sample.

Kraft discloses a fluorogenic substrate that can be cleaved by a viral protease enzyme, and methods of using the substrate for detecting the presence or activity of a viral protease enzyme in a test sample.

Applicant submits that Kraft does not anticipate the Claims 1-4 and 10 as amended herein, as Kraft does not teach all of the elements of amended Claim 1. The method of Claim 1 requires the use of a substrate that is unique to *Listeria monocytogenes*. Kraft teaches only a substrate that is cleaved by a viral protease. Kraft does not indicate or suggest that the viral protease substrate is a substrate unique to *Listeria monocytogenes*. As Kraft does not teach all of the elements of amended Claim 1, Kraft does not anticipate Claim 1. Applicant also submits that Claims 2-4 and 10, which depend from Claim 1 and are subject to all of the limitations of Claim 1, are not anticipated by Kraft. In light of the above comments, withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned at (978) 341-0036.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By Deirdre E. Sanders
Deirdre E. Sanders
Registration No. 42,122
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated:

August 22, 2003